

HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION NO. 11232 OF 1993

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Between:

A.P.State Textile Processing Factory,
rep. by its General Manager, Jeedimetla,
R.R.District

.....Petitioner

And

Authority under the Payment of Wages Act-cum-
Assistant Commissioner of Labour, R.R.District-1,
8th Floor, Chandra Vihar, M.J.Road, Hyderabad
and two others

.....Respondents

:: ORDER ::

Counsel for the petitioners : Sri A. Ramakrishna

representing
Sri N. Rajeswara Rao

Counsel for Respondent No. 1 : Government Pleader for
Labour

Counsel for Respondent No. 2 : None

Counsel for Respondent No. 3 : Sri A. Krishna Rao

Dated: 29-03-2006

In this petition, the petitioner has prayed for quashing order dated 11-06-1993 passed in Criminal M.P No.782 of 1993 in P.W.M.P No.4 of 1992 and also for directing respondent No.1 to comply with order dated 22-2-1993 passed in Writ Petition No.3419 of 1993.

On the last date of hearing i.e., 10-02-2006, the Court had, after hearing the parties passed the following order:

“Sri T. Rangaiah, representing Sri N.Rajeshwar Rao, learned counsel for the petitioner. Sri A. Krishna Rao for Respondent No.3.

This petition is illustrative of how the haves of the society can abuse and misuse the process of the Court for frustrating the legitimate right of the have nots. The petitioner is an industrial unit. It fall in the category of haves. The husband of

Smt. Istari Rani, late Rajaratnam Rao was employed as workman in the establishment of the petitioner. His service was terminated some time before 1987. The dispute raised by him was referred under Section 10 (1)(c) of the Industrial Disputes Act, 1947 (for short ‘the Act’) for adjudication to Additional Industrial Tribunal-cum-Additional Labour Court,

Hyderabad (hereinafter described as 'the Tribunal'). The same was registered as reference No. ID 319 of 1987. During the pendency of the reference, Sri Rajaratnam Rao breathed his last. Thereafter,

Smt. Istari Rani filed an application for issuance of the direction to the employer to appoint her on compassionate ground. By an order dated 29.7.1991, the Presiding Officer of the Tribunal passed an order that the applicant be employed on a suitable post within 30 days. The employer did not comply with that direction for almost 7 years and challenged the same in Writ Petition No.14320 of 1997 which is said to have been allowed by the Single Bench and Writ Appeal No.527 of 1999 filed by Smt.Istari Rani was disposed of by the Division Bench in the year 1999 by passing the following order:

"Learned counsel for the respondent states that if the appellant is able to produce sufficient evidence before the respondent-authority to prove that she is the legally wedded wife of the deceased-workman, her case will be considered for fresh appointment on compassionate grounds, in accordance with law.

The offer made by the respondent is very fair, just and equitable. In view of the long drawn litigation from the year 1987, during the pendency of which the workman who was terminated died on 14-8-89 and the order of termination having never been set aside, the ends of justice will be met if the offer of the respondent is complied with.

Accordingly, we order that in case the appellant is liable to establish before the authority of the respondent that she is the legally wedded wife of the deceased-workman and lead evidence before the authority to that effect, her case will be considered for appointment on compassionate grounds. Consequently, with the above mentioned modification in the impugned order, the writ appeal is disposed of. The respondent-authority would decide the matter within two months from the date of receipt of the evidence. The appellant will produce the evidence before the authority within one month from today. In case the appellant fails to comply with the condition of production of evidence before the respondent-authority within one month, the writ petition shall be deemed to have been dismissed. No order as to costs."

In the meanwhile, Smt. Istari Rani filed an application under Section 15 of Payment of Wages Act, 1936 (for short "the 1936 Act"). The same was registered as Application No.4

of 1992. By an order dated 10.12.1992, the Prescribed Authority allowed the application of Smt. Istari Rani and ordered the petitioner to pay a sum of Rs. 9100/- with costs of Rs. 140/-. The petitioner did not challenge that order by filing an appeal under Section 17 of the Act, but when Smt. Istari Rani took steps for execution of that order, the petitioner filed Criminal Miscellaneous Petition No. 1902 of 1993 and succeeded in persuading this Court to stay the order of attachment passed by the competent court. Ultimately, that petition was dismissed by this Court. Immediately, thereafter, the petitioner instituted the present petition and succeeded in persuading the Court to pass an order of interim stay. In the Writ Petition, the petitioner did not implead

Smt. Istari Rani as party respondent despite the fact that she is the sole beneficiary of order dated 12.10.1992 passed by the Prescribed Authority and proceedings for execution of that order were initiated at her instance. This clever device by the writ petitioner left the poor widow with no option but to file miscellaneous petition for her impleadment as party to the writ petition. This Court realised a grave injustice done to the applicant and ordered her impleadment as a respondent. The ex parte interim order was also modified by directing the petitioner to deposit a sum of Rs. 3,000/- in two equated instalments of Rs.1,500/- each. Mercifully, the petitioner complied with the direction given by the Court for deposit of the amount and respondent No.3 could withdraw that amount at least for the purpose of paying the fee and cost of litigation.

At the commencement of hearing, repeatedly asked the learned counsel for the petitioner as to why order dated 12.10.1992 was not challenged by his client by filing Appeal under Section 17 of the 1936 Act and while Smt. Istari Rani was not impleaded as party to the writ petition, despite the fact that her interest was vitally affected by the petitioner's challenge to the proceedings initiated for execution of order dated 12.10.1992, but he could not give any satisfactory reply. At the same time, learned counsel referred to award dated 5-5-1999 passed by the Tribunal and order dated 24-9-1999 passed by the Division Bench in Writ Appeal No.527 of 1999. After going through these orders, I asked the learned counsel to explain as to why the petitioner did not endeavour to bring the additional fact on the record of the writ petition. Upon this, the learned counsel reported helplessness by saying that the petitioner had not handed over the relevant records to him.

In my opinion, the writ petition is liable to be dismissed because the petitioner appears to have not only mislead the Court in passing the interim orders by deliberately not

impleading the affected party as party respondent, but it also appears to be guilty of suppressing material facts. However, keeping in view the fact that the writ petition has remained pending before the Court for the last more than 12 years, I, for the time being, refrain from dismissing the same on the aforementioned ground and deem it proper to give one month's time to the petitioner to bring on record additional facts and documents.

Put up on 10-3-2006.

While adjourning the case, I consider it necessary to saddle the petitioner with costs of Rs.3,000/- which shall be payable to respondent No.3 so as to enable her to effectively contest the writ petition. The petitioner is directed to remit the amount of Rs.3,000/- to respondent No.3 by banker's cheque which shall be sent at her address by registered post within a period of seven (7) days from today.

If the petitioner fails to comply with the last mentioned direction, the writ petition may have to be dismissed with exemplary costs”.

Sri A. Ramakrishna, learned counsel for the petitioner says that he has been instructed to withdraw the writ petition. He further says that the amount due to respondent No.3 as also the costs awarded by the Court on 10-02-2006 have been paid to respondent No.2.

Sri A. Krishna Rao, learned counsel for respondent No.3 says that his client has received the requisite amount.

In view of the statements made by the learned counsel, the writ petition is dismissed as withdrawn.

G.S. SINGHVI, CJ

29-03-2006

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